

**Thomas Jefferson to John Randolph, November 19, 1804, from The Works of Thomas Jefferson in Twelve Volumes. Federal Edition. Collected and Edited by Paul Leicester Ford.**

**TO JOHN RANDOLPH J. MSS.**

Washington, Nov. 19, '04.

Dear Sir, —I mentioned to you in a cursory way the other evening that before the meeting of Congress I had conferred with my executive associates on the subject of insults in our harbors, and that we had settled in our own minds what we thought it would be best to do on that subject, which I had thrown into the form of a bill.<sup>1</sup> I meant to have

<sup>1</sup> The following is the bill alluded to:

*“ An act for the more effectual preservation of the peace in the harbors and waters of the U. S. & on board vessels.*

Foreign armed vessels within the harbours committing breaches of law. C. line 4. after ‘felony’ insert ‘infraction of revenue law or other Statute.’ I had rather extend the provision to cases cognizable by the authority of individual States, but if this be objectionable the cases cognizable by the authority of the U. S. should be defined. Was the impressment in N. Y. harbour a case cognizable by the authority of the U. S.? And, why, supposing it was should outrages against the public peace & affecting the personal property of citizens, but exclusively punishable by State authority, remain unprovided against?

“Be it enacted &c. that whensoever any treason, felony, misprision, misdemeanor, breach of the peace or of the revenue laws shall have been committed within the jurisdiction of

## Library of Congress

the U. S. and in a case cognisable by the authority thereof and the person committing the same shall be on board of any foreign armed vessel in any harbour of the U. S. or in the waters within their jurisdiction, and the ordinary *posse comitatus* shall be deemed insufficient to enable the officer of the U. S. charged with the process of law, to serve the same, it shall be lawful for him to apply to any officer having command of militia, of regular troops or of armed vessels of the U. S. in the vicinity to aid him in the execution of the process with which he is so charged, which officer conforming himself in all things to the instructions he shall receive, or shall have received from the President of the U. S. or other person duly authorized by him, shall first demand a surrender of the person charged in the said process, and if delivery be not made, or if he be obstructed from making the demand, he shall use all the means in his power by force of arms to arrest and seize the said person, and all those who are with him giving him aid or countenance, and the same to convey and deliver under safe custody to the civil authority to be dealt with according to law, and if death ensues on either side it shall be justifiable or punishable as in cases of homicide in resisting a civil officer.

“See for similar powers Act 5, June 94. § 7. 8. pa. 91–93 vol. 3. and act 28 Feb. 95. § 2. 9. pa. 189–191 vol. 3.

“The objects of 94. June 5. are, 1. Takg. or issuing commissions in foreign service. 2. Enlisting in do. within U. S. 3. Arm ships to serve foreign power. 4. Set. on foot within U. S. expedn. agt. foreign power. 5. Capture of a vessel within waters of U. S. Resistance of process by armed vessel. In these cases the President may use force. The 6th case vaguely looks towards the objects of this 1st section.”

Exclusion of foreign armed vessels from our harbours; and regulation of their conduct while in them.

“After ‘they’ insert ‘are entitled to said privilege by virtue of any treaty or when they’ A. G.”

## Library of Congress

“Dele ‘customs at the place’ and insert ‘district.’

A. G.

“And in order to prevent insults to the authority of the laws within the said harbours and waters, and thereby endangering our peace with foreign nations, be it further enacted that it shall be lawful for the President of the U. S. to interdict the entrance of the harbours & waters under the jurisdiction of the U. S. to all armed vessels belonging to any foreign nation and by force to repel & remove them from the same except where they shall be forced in by distress, by the dangers of the sea, or by pursuit of any enemy, or where they shall be charged with dispatches or business from the government to which they belong to that of the U. S., in which cases as also in all others where they shall be voluntarily permitted to enter the officer commanding such vessel shall immediately report his vessel to the Collector of the district stating the causes & object of his entering the harbour or waters, shall take such position in the harbour or waters as shall be assigned to him by such Collector & shall conform himself, his vessel & people to such regulations respecting health, repairs, supplies, stay, intercourse & departure as shall be signified to him by the said Collector, under the authority and instructions of the President of the U. S. and not conforming thereto shall be compelled to depart the U. S.

Qu. are not armed vessels of some nations exempted from making report and entry by virtue of treaties?”

“Foreign armed vessels refusing to depart.”

“And be it further enacted that whensoever any armed vessel of a foreign nation, entering the waters within the jurisdiction of the U. S. and required to depart therefrom, shall fail so to do, it shall be lawful for the President of the U. S. in order to avoid unnecessary recurrence to force, to forbid all intercourse with such vessel and with every armed vessel of the same nation & the people thereto belonging; to prohibit all supplies and aids

## Library of Congress

from being furnished them and also to instruct the Collector of the district where such armed vessel shall be & of any or every other district of the U. S. to refuse permission to any vessel belonging to the same nation or its people to make entry or unlade so long as the said armed vessel shall, in defiance of the public authority remain within the harbours or waters of the U. S. and all persons offending herein shall be deemed guilty of a misdemeanor punishable by fine & imprisonment and shall moreover be liable to be bound to the good behavior according to law.

“Oct. 1804.”

communicated this to you: but on the reference of that part of the message to a special committee it was thought necessary to communicate it without delay to a member of the committee. But the outlines are these. In the 1st place foreign armed vessels entering our harbors are to report themselves, to take such position, & conform to such regulations respecting health, repairs, supplies, stay, intercourse & departure as shall be prescribed. On not conforming to these, the vessel may be ordered away. And not obeying that order, the following gradation of coercive measures is proposed. To forbid supplies to be furnished to them, to cut off all intercourse between them & the shore or other vessels, not to receive the entry at the custom house at that port of any vessel of the same nation till she removes. To extend the prohibition to all customhouses of the U. S. so long as the refractory vessel remain: & lastly to recur to force. These were our ideas suggested from practice and a knolege of facts: and the communication of them in form of a bill is merely as a canvass or *premiere ebauche* for Congress to work on, & to make of it whatever they please. They cannot be the worse for knowing the result of our information & reflection on the subject, which has been privately communicated as more respectful than to have recommended these measures in the message in detail as the Constitution permits. With the same view I state them merely as subjects for your consideration. Accept affectionate salutations & assurances of respect.